IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 32657 of 2006(K)

PETITIONER:

K.J.PAULO @ PAILY, KOLUTHUVAYIL,
ERUMBACHOLA, KANJIRAPUZHA, MANNARKAD.

BY ADV. SRI.M.C.JOHN

RESPONDENTS:

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1. THE CUSTODIAN & CONSERVATOR OF FORESTS, VESTED FOREST CIRCLE, OLAVAKODE, PALAKKAD.

2. THE DIVISIONAL FOREST OFFICER, MANNARKAD, PALAKKAD.

3. THE FOREST RANGE OFFICER, AGALY RANGE, MANNARKAD, PALAKKAD.

4. THE SECTION FORESTER, FOREST STATION, PALAKAYAM, MANNARKAD, PALAKKAD.

BY GOVERNMENT PLEADER SUSHEELA BHAT (FOREST)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)NO.32657 OF 2006

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Dated this the 16th day of January 2007

JUDGMENT

Heard counsel for the petitioner and the special Government Pleader for Forest Department.

2. Two acres of property owned by petitioner was claimed by the Forest Department as forest land. However, the O.A. filed by the petitioner for declaring title was allowed by the Forest Tribunal vide order dated, 5-11-1979. This order was not challenged by the Forest Department. Petitioner has been admittedly in possession and enjoyment of land prior to the order of the Forest Tribunal and thereafter. The trees cut by the petitioner in 2004 were not allowed to be removed by the Forest Department for the reason that former restoration is not given by the Forest Department after Tribunal's order. On going through Tribunal's order, I find that Tribunal declared ownership and possession on petitioner and therefore there is no need for restoration of property by the Forest Department. In the circumstances, the stand of the Forest Department that without restoration of land to the petitioner, petitioner cannot be

permitted to cut and remove trees is untenable as he was in continuous possession and enjoyment of the property for several years.

In the circumstances, writ petition is allowed directing the respondents to permit the petitioner to remove the cut timber.

C.N.RAMACHANDRAN NAIR, JUDGE

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